

Status when not in Federal service, see sections 10107 and 10113 of Title 10.

Uniform, when wearing by persons not on active duty authorized, see section 772 of Title 10.

§ 301. Federal recognition of enlisted members

To be eligible for Federal recognition as an enlisted member of the National Guard, a person must have the qualifications prescribed by the Secretary concerned for the grade, branch, position, and type of unit or organization involved. He becomes federally recognized upon enlisting in a federally recognized unit or organization of the National Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 601.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
301	50:1113(a) (as applicable to enlisted members).	July 9, 1952, ch. 608, § 703(a) (as applicable to enlisted members), 66 Stat. 502.

CROSS REFERENCES

Withdrawal of Federal recognition, see section 323 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 323, 709 of this title.

§ 302. Enlistments, reenlistments, and extensions

(a) Under regulations to be prescribed by the Secretary concerned, original enlistments in the National Guard may be accepted for—

- (1) any specified term, not less than three years, for persons who have not served in an armed force; or
- (2) any specified term, not less than one year, for persons who have served in any armed force.

(b) Under regulations to be prescribed by the Secretary concerned, reenlistment in the National Guard may be accepted for any specified period, or, if the person last served in one of the highest five enlisted grades, for an unspecified period.

(c) Enlistments or reenlistments in the National Guard may be extended—

- (1) under regulations to be prescribed by the Secretary concerned, at the request of the member, for any period not less than six months; or
- (2) by proclamation of the President, if Congress declares an emergency, until six months after termination of that emergency.

(Aug. 10, 1956, ch. 1041, 70A Stat. 601; Oct. 4, 1961, Pub. L. 87-378, § 5(1), 75 Stat. 808.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
302	32:124.	June 3, 1916, ch. 134, § 69; restated July 11, 1919, ch. 8 (20th par. under "National Guard"); restated June 4, 1920, ch. 227, subch. I, § 37; restated June 6, 1924, ch. 275, § 4; restated June 15, 1933, ch. 87, § 7, 48 Stat. 156; July 9, 1952, ch. 608, § 806(a), 66 Stat. 506.

32:124 (1st proviso) is omitted as executed. The word "reenlistments" is substituted for the words "subsequent enlistments".

AMENDMENTS

1961—Pub. L. 87-378 permitted original enlistments for any specified term, not less than three years, for persons who have not served in an armed force, authorized reenlistments for any specified period, or if the person last served in one of the highest five enlisted grades, for an unspecified period, extensions of enlistments or reenlistments at the request of the member for any period not less than six months after termination of the emergency.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 6 of Pub. L. 87-378 provided that: "The amendments made by sections 3, 4, and 5 of this Act [amending this section and sections 3261 and 8261 of Title 10, Armed Forces] shall not affect any enlistment, reenlistment, or appointment entered into or made before the effective date of this Act [Oct. 4, 1961]."

CROSS REFERENCES

Army National Guard of United States and Air National Guard of United States, see section 12107 of Title 10, Armed Forces.

§ 303. Active and inactive enlistments and transfers

(a) Under regulations to be prescribed by the Secretary of the Army, a person qualified for enlistment in the active Army National Guard may be enlisted in the inactive Army National Guard for a single term of one or three years. Under regulations prescribed by the Secretary of the Air Force, a person qualified for enlistment in the active Air National Guard may be enlisted in the inactive Air National Guard for a single term of one or three years.

(b) Under such regulations as the Secretary of the Army may prescribe, an enlisted member of the active Army National Guard, not formerly enlisted in the inactive Army National Guard, may be transferred to the inactive Army National Guard. Under such regulations as the Secretary of the Air Force may prescribe, an enlisted member of the active Air National Guard, not formerly enlisted in the inactive Air National Guard, may be transferred to the inactive Air National Guard. Under such regulations as the Secretary concerned may prescribe, a person enlisted in or transferred to the inactive Army National Guard or the inactive Air National Guard may be transferred to the active Army National Guard or the active Air National Guard, as the case may be.

(c) In time of peace, no enlisted member may be required to serve for a period longer than that for which he enlisted in the active or inactive National Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 601; Sept. 7, 1962, Pub. L. 87-649, § 14e(1), 76 Stat. 502; Dec. 12, 1980, Pub. L. 96-513, title V, § 515(2), 94 Stat. 2937.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
303(a)	32:132.	June 3, 1916, ch. 134, § 78 (1st and 2d sentences);
303(b)	32:133 (less proviso).	restated June 4, 1920,
303(c)	32:154 (1st 26 words of last par.).	ch. 227, subch. I, § 42 (less provisos); re-
303(d).	32:133 (proviso).	stated Feb. 28, 1925, ch. 371, § 2 (1st and 2d sentences); restated June 15, 1933, ch. 87, § 15 (1st and 2d sentences), 48 Stat. 159; July 9, 1952, ch. 608, § 806(f), 66 Stat. 507.
		June 3, 1916, ch. 134, § 110 (1st 30 words of last par.); restated Sept. 22, 1922, ch. 423, § 6 (1st 30 words of last par.); restated May 12, 1928, ch. 529 (1st 30 words), 45 Stat. 500.

In subsection (a), 32:132 (last 23 words) is omitted as covered by section 304 of this title.

In subsection (b), the words “Under such regulations as the Secretary may prescribe” are substituted for the word “likewise”.

In subsection (c), the words “in the inactive * * * National Guard” are substituted for the words “not on the active list”, since there is no active list prescribed for the National Guard.

In subsection (d), the words “under any enlistment” are omitted as surplusage.

AMENDMENTS

1980—Subsecs. (c), (d). Pub. L. 96-513 redesignated subsec. (d) as (c).

1962—Subsec. (c). Pub. L. 87-649 repealed subsec. (c) which provided that a person enlisted in inactive Army National Guard or inactive Air National Guard is not entitled to pay under section 301 of title 37.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-649 effective Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

CROSS REFERENCES

Persons enlisted in inactive National Guard not entitled to pay, see section 206 of Title 37, Pay and Allowances of Uniformed Services.

Transfer of enlisted members from Army National Guard of United States and Air National Guard of United States to Army Reserve and Air Force Reserve, see section 12105 of Title 10, Armed Forces.

§ 304. Enlistment oath

Each person enlisting in the National Guard shall sign an enlistment contract and subscribe to the following oath:

“I do hereby acknowledge to have voluntarily enlisted this ____ day of _____, 19____, in the _____ National Guard of the State of _____ for a period of ____ year(s) under the conditions prescribed by law, unless sooner discharged by proper authority.

“I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and of the State of _____ against all enemies, foreign and domestic; that I will bear true faith and alle-

giance to them; and that I will obey the orders of the President of the United States and the Governor of _____ and the orders of the officers appointed over me, according to law and regulations. So help me God.”

The oath may be taken before any officer of the National Guard of the State or Territory, or of Puerto Rico, or the District of Columbia, as the case may be, or before any other person authorized by the law of the jurisdiction concerned to administer oaths of enlistment in the National Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 602; Oct. 5, 1962, Pub. L. 87-751, § 2, 76 Stat. 748; Sept. 29, 1988, Pub. L. 100-456, div. A, title XII, § 1234(b)(1), 102 Stat. 2059.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
304	32:123.	June 3, 1916, ch. 134, § 70; restated June 4, 1920, ch. 227, subch. I, § 38; restated June 15, 1933, ch. 87, § 8, 48 Stat. 156; June 19, 1935, ch. 277, § 3, 49 Stat. 391; July 9, 1952, ch. 608, § 806(b), 66 Stat. 506.

The words “or affirmation” are omitted as covered by the definition of the word “oath” in section 1 of title 1. The words “Each person” are substituted for the word “Men”. The words “_____ National Guard” are substituted for the words “National Guard (Air National Guard)”.

AMENDMENTS

1988—Pub. L. 100-456 struck out “the Canal Zone,” after “Puerto Rico.”.

1962—Pub. L. 87-751 substituted “support and defend the Constitution of the United States and of the State of _____ against all enemies, foreign and domestic; that I will bear true faith and allegiance to them” for “bear true faith and allegiance to the United States of America and to the State of _____: That I will serve them honestly and faithfully against all their enemies whomsoever” and inserted “So help me God.”

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-751 not to effect any oath taken before one year after Oct. 5, 1962, see section 3 of Pub. L. 87-751, set out as a note under section 502 of Title 10, Armed Forces.

CROSS REFERENCES

General military law provision, see section 502 of Title 10, Armed Forces.

Subscription to oath necessary for enlistment as member of Army National Guard of United States and Air National Guard of United States, see section 12107 of Title 10.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 12107.

§ 305. Federal recognition of commissioned officers: persons eligible

(a) The following categories are eligible for Federal recognition as commissioned officers of the National Guard:

- (1) Members of the National Guard.
- (2) Members of the Army, Navy, Air Force, or Marine Corps.
- (3) Former officers of the Army, Navy, Air Force, or Marine Corps.